

# Extracts from the Constitution, the Revised Codes and 1909 Session Laws of Idaho, Relative to Mining

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## Constitution of Idaho, Article I, Section 14.

### Right of Eminent Domain.

Sec. 14. The necessary use of lands for the construction of reservoirs or storage basins, for the purposes of irrigation, or for the rights of way for the construction of canals, ditches, flumes or pipes to convey water to the place of use, for any useful, beneficial or necessary purpose, or for drainage; or for the drainage of mines, or the working thereof, by means of roads, railroads, tramways, cuts, tunnels, shafts, hoisting works, dumps, or other necessary means to their complete development, or any other use necessary to the complete development of the material resources of the State or the preservation of the health of its inhabitants, is hereby declared to be a public use, and subject to the regulation and control of the State.

Private property may be taken for public use, but not until a just compensation, to be ascertained in a manner prescribed by law, shall be paid therefor.

## Constitution of Idaho, Article XIII, Section 4.

### Child Labor In Mines Prohibited.

Sec. 4. The employment of children under the age of fourteen (14) years in underground mines is prohibited.

## INSPECTOR OF MINES.

### Election, Term of Office and Salary.

Sec. 199. The office of Inspector of Mines for the State of Idaho is hereby created, the same to be filled biennially at the general election by the qualified electors of the State as other offices. The Inspector of Mines shall hold his office for the term of two years and until his successor is elected and qualified. Before entering upon the discharge of his duties as such Inspector of Mines, he shall file an official bond in the sum of five thousand dollars, conditioned for the faithful performance of the duties of his office, in form and manner as other official bonds of State officers. The Inspector of Mines shall receive as full compensation for his services a salary of twenty-four hundred dollars per annum and his actual and necessary traveling expenses when traveling in the discharge of his official duties, not to exceed eighteen hundred dollars per annum, and all necessary expenses for clerk hire, postage, stationery, printing, the compensation of deputies and other office expenses, not to exceed twelve hundred dollars per annum; and such compensation and expenses shall be paid as the salary and expenses of other State officers are paid.

### Disqualifications: Oath of Inspector.

**Sec. 200.** The Inspector of Mines shall not, at the time of his appointment or any time during his term of office, be an officer, director, or employee in or of any mining corporation in this State, or in or of any milling corporation in the State engaged in the business of smelting or reducing ores. Such Inspector shall devote his whole time to the duties of his office and shall take and subscribe to the following oath:

State of Idaho, County of.....—ss.

I, of ..... County, do solemnly swear that I will perform each and every duty required of me as Inspector of Mines for the State of Idaho; that I will, at all times while acting in my official capacity, fulfill the duties of such office according to law, and to the best of my skill and understanding; that I will never at any time while holding the office of Inspector of Mines disclose to any one, directly or indirectly, under any circumstances, any information relative to ore bodies, chutes, or deposits of ore, or the location, course or character of underground workings, or give my opinion founded on any examination made in the performance of my official duties relative to the value of any mine or mining property, unless by permission of the person or persons in charge of the same; to all of which I pledge my sacred honor. So help me God.

Nothing in said oath, however, shall be construed to prevent such Mining Inspector from making full and complete statistical reports as required by law.

### Duties in General.

**Sec. 201.** It shall be the duty of the Inspector of Mines, at least once each year, to visit in person each mining county in the State of Idaho and examine all such mines therein as, in his judgment, may require examination for the purpose of determining the condition of such mines as to safety, and to collect information and statistics relative to mines and mining and the mineral resources of the State, and to collect, arrange and classify mineral and geological specimens found in this State and to forward the same to the State School of Mines.

### Examination of Mines.

**Sec. 202** Said Inspector shall have full power and authority, at all reasonable hours, to enter and examine any and all mines in this State, and shall have the right to enter into any and all mine stopes, levels, winzes, tunnels, shafts, drifts, cross-cuts, workings and machinery, for the purpose of such examination; and the owner, lessor, lessee, agent, manager or other person in charge of such mine or mines, shall render the Inspector such assistance as may be required by the Inspector to enable him to make a full, thorough and complete examination of each and every part of such mine or mines, and whenever, as the result of the examination of any mine (whether such examination is made in consequence of a complaint, as hereinafter provided, or otherwise) the Inspector shall find the same to be in an unsafe condition, he shall at once serve, or cause to be served, a written notice upon the owner, lessor, lessee, agent, manager or other person in charge of such mine, stating in detail in what particular or particulars the mine is dangerous or insecure, and shall require all necessary changes to be made, without delay, for the purpose of making said mine safe for the employees therein. Upon the neglect or refusal of any owner, lessor, lessee, agent, manager or other person

in charge, so notified to comply with the requirements stated in such notice so served, such owner, lessor, lessee, agent, manager or other person in charge, of such mine shall be deemed guilty of a misdemeanor, and is punishable by a fine of not more than five hundred dollars, and each day's continuance of such neglect or refusal shall be a separate offense, and in case of any criminal or civil proceeding at law against the party or parties so notified, on account of the loss of life, or bodily injury sustained by any employee subsequent to the service of such notice, and in consequence of a neglect or refusal to obey the Inspector's requirement, a certified copy of the notice served by the Inspector shall be prima facie evidence of the culpable negligence of the party or parties so notified.

**Office: Records: Reports to Inspector.**

**Sec. 203.** The Inspector of Mines shall be provided with a properly furnished office, at the State House in Boise City, Idaho, in which he shall carefully keep a complete record of all mines examined, showing the date of examination, the condition in which the mines were found, the manner and method of working, the extent to which the laws are obeyed, and what recommendations, if any, were ordered by the Inspector.

It is hereby made the duty of the owner, lessor, lessee, agent, manager or other person in charge of each and every mine, of whatever kind or character, within the State, to forward to the Inspector of Mines at his office, not later than the first day of June in each year, a detailed report showing the character of the mine, the number of men then employed and the estimated maximum number of men to be employed therein during the ensuing year, the method of working such mine and the general condition thereof, and such owner, lessor, lessee, agent, manager or other person in charge of any mine within the State, must furnish whatever information relative to such mine as the Inspector of Mines may, from time to time, require for his guidance in the proper discharge of his official duties.

**Complaints to Inspector: Duty of Inspector.**

**Sec. 204.** Whenever the Inspector of Mines shall receive a formal complaint in writing, signed by three or more persons, setting forth that the mine in which they are employed is dangerous in any respect, he shall, in person, visit and examine such mine: Provided, Every such formal complaint shall in all cases specifically set forth the nature of the danger existing at the mine and shall describe, with as much certainty as is possible, how much danger, apparent or real, renders such mine dangerous, and shall set forth the time when such danger was first observed, and shall distinctly set forth whether or not any notice of such defect or danger has been given by the complainants, or any one else to their knowledge, to the superintendent or other person in charge of such mine, and if no such complaint has been made to such superintendent or other person in charge, the reason why it has not been made: and, Provided, further, That all complaints shall be duly verified by the parties complaining, before some officer authorized by law to administer oaths. After such complaint shall have been received by the Inspector of Mines, it shall be the duty of such Inspector to serve a certified copy thereof, but without the names of the complainants, upon the owner, lessor, lessee, agent, manager, or other person in charge, and, as soon as possible after receiving such complaint to visit and examine such mine, and if from such examination he shall find such complaint to be just, he shall

give notice in writing of the danger existing to the owner, lessor, lessee, agent, manager, or other person in charge thereof, and in such notice may, in his discretion, order such mine or workings in which such danger exists, closed until such danger has been removed. The names of complainants complaining as in this section provided, shall not, under any circumstances, be divulged to any person by said Inspector except such action be necessary in the administration of justice in the courts of the State.

#### **Neglect of Mine Owner: Duty of Attorney General.**

**Sec. 205.** It shall be the duty of the Inspector of Mines upon the neglect or refusal of any owner, lessor, lessee, agent, manager, or other person in charge of any mine or working, notified of the unsafe or dangerous condition of his mine, promptly to comply with the requirements of the notice served upon him, to at once notify the Attorney General of such neglect or refusal, and the Attorney General must thereupon immediately commence action in the name of the State against the party so notified for the recovery of the penalty mentioned in Section 202, in any court of competent jurisdiction, and the amount so recovered shall be paid into the general school fund of the State and constitute a part thereof.

#### **Appointment of Deputies.**

**Sec. 206.** With the consent and approval of the Governor, the Inspector of Mines may appoint such deputy inspectors as in his judgment may be necessary. Such deputy inspectors shall be allowed, as full compensation for all services, five dollars per day for each day actually engaged in the performance of their duties.

#### **Duty of Inspector in Case of Accidents.**

**Sec. 207.** Whenever a serious or fatal accident shall occur in any mine in the State of Idaho, it shall be the duty of the owner, lessor, lessee, agent, manager or other person in charge thereof, immediately and by the quickest means, to notify the Inspector of Mines or his deputy, as may be most convenient, of such accident; and upon receiving such notice the Inspector or his deputy, or both, shall at once repair to the place of the accident and investigate fully the cause of such accident; and the Inspector or his deputy shall be present at any coroner's inquest held over the remains of any person or persons killed in any such accident, and shall have power at such inquest to examine and cross-examine witnesses, and may have process to compel the attendance of necessary witnesses at such inquest. If the Inspector or deputy inspector can not be immediately present in case of a fatal or serious accident occurring, it shall be the duty of the owner, lessor, lessee, agent, manager, or other person in charge of the mine in which such accident has occurred, to have statements made and verified by those witnessing such accident (in case no person was present at the time of the accident, then the statement of those first present thereafter shall be taken), which statements shall be verified, and such verified statements shall be placed in the hands of the Inspector or deputy inspector, upon the demand of such officer. Whenever any deputy inspector is present at any coroner's inquest and assists in the examination, he shall, at the conclusion thereof, at once prepare and forward to the Inspector a full and detailed report of the accident, giving all information obtainable regarding the same.



### **Duties of Deputies.**

**Sec. 208.** The duties of deputy inspectors shall only be such as are indicated in the preceding section; that is, to attend and act either with or in place of the Inspector of Mines in cases of accident, at the scene of such accident, and at coroner's inquests, and to make reports.

### **Report of Inspector.**

**Sec. 209.** The Inspector of Mines shall, on or before the first day of December of each year, file with the Governor of the State a printed report giving:

1. A list of all accidents that have occurred during the year, the nature and cause of the same, together with the persons killed and injured;

2. The number of mines visited or examined during the year; the number of mines in operation; the number of mines idle; the number of men employed; the wages paid, and the nationality of employees;

3. The name and location of each mine in the State, which has been examined and from which the Inspector has received a report as provided in Section 203, and all data possible in regard to the manner of working the same, whether by shaft, tunnel, incline or otherwise; the condition of the hoisting machinery, boilers, whims, engines, cars, buckets, ropes and chains, used in the mines; also the appliances used for the extinguishing of fires; the manner and methods of working and timbering the shafts, drifts, inclines, stopes, winzes, tunnels and up-raises through which persons pass to and fro while engaged in their daily labor; the character of the exits from the mine, the methods of ventilation, and the system of signals used in the mine;

4. The number and character of notices served, together with suggestions and recommendations made, and the manner in which such suggestions and recommendations were complied with;

5. The number of complaints received and actions thereon;

6. The number of prosecutions for neglect or refusal to comply with notices;

7. A summary of the reports received from mine owners and deputy inspectors;

8. A full statement containing all available statistical and other information calculated to exhibit the mineral resources of the State, and to promote the development of the same;

9. Generally, such other information and suggestions as may be deemed advisable.

### **INCLOSURE OF RESERVOIRS AND DUMPS.**

#### **Reservoirs and Dumps to Be Inclosed.**

**Sec. 1276.** The owner or operator of any quartz mill must inclose with a good and substantial fence, sufficient to turn stock, all reservoirs and dumps or other material, known to contain that which is injurious to the health of stock.

#### **Liability for Failure to Inclose.**

**Sec. 1277.** Every person who fails to comply with the provisions of the last section is liable to the owner of any stock injured by drinking the water or acids that flow from such mill, in twice the damage sustained.

## PROTECTION OF MECHANICS.

### Employers to Make Statement.

**Sec. 1446.** It shall be the duty of any person, persons, company or corporation engaged in working any mine, mines, mining premises or in developing any mining claim or claims, whether quartz or placer, or in the running of any tunnel, or in the erection or repair of any building or other structure, or in the construction of any canal, ditch, railroad, wagon road or aqueduct, in every case where mechanics or laborers are employed in or about the properties above mentioned to make, record and publish a statement under oath, setting forth the following data:

1. The name or names of the owner or owners of the mine, mines, mining claim or premises, tunnel, building, canal, ditch, railroad, wagon road, aqueduct or other structure upon which work is being done or upon which it is intended to begin work;

2. The name or names of the person, persons, company or corporation engaged in, or who contemplates engaging in, work upon any of the properties or structures mentioned herein;

3. The conditions under which said person, persons, company or corporation is prosecuting said work, whether as owner, agent, lessee, contractor, sub-contractor, contemplative purchaser or lien holder;

4. The principal office of said person, persons, company or corporation, and, if a corporation, the State or county where incorporated and the agent in this State on whom service may be had;

5. The day of the week or month when payment of the laborers, mechanics and material men will be made, and the place where said payments will be made;

6. A statement of all mortgages and liens against the property on which work is being done, with the amount of each of said incumbrances and whether or not the same is due.

**Sec. 1447.** Any person, persons, company or corporation who shall engage in working, developing or prospecting any mine, mines, mining claim or premises, or in running any tunnel, or in repairing or erecting any building, or in constructing any canal, ditch, railroad, wagon road, aqueduct or other structure, and shall employ any mechanics or laborers in prosecuting said work, shall, before employing said mechanics or laborers or any of them, make a statement under oath containing the data provided for in the preceding section, and file the same for record in the office of the recorder of the county in which said labor is being done, and if there be a district recorder, then also in the office of said district recorder of the district where said mechanics or laborers are employed, and to also post similar statements in his or its office, at the place where payment of wages is to be made and in a public and conspicuous place where it can be easily seen at or near the place where said mechanics or laborers are employed.

### Violation of Chapter a Misdemeanor.

**Sec. 1448.** Any person, persons, company or corporation, or any managing agent violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars, or by imprisonment in the county jail for not exceeding three months.

## DAY'S WORK IN MINES.

### Eight Hours a Day's Work.

**Sec. 1463.** The period of employment of working men in all underground mines or workings shall be eight hours per day, except in cases of emergency where life or property is in imminent danger.

**Same: In Smelters.**

**Sec. 1464.** As amended by Sess. Laws 1909, page 4 (House Bill No. 54).

Be It Enacted By the Legislature of the State of Idaho:

**Section 1.** That Section 1464 of the Revised Codes of the State of Idaho be and the same is hereby amended to read as follows:

**Sec. 1464.** The period of employment of working men in smelters, ore reduction works, stamp mills, concentrators and other places where metalliferous ores are being treated, refined and reduced for the purpose of obtaining the metals thereof, shall be eight (8) hours per day, except in cases of emergency where life or property is in imminent danger.

Approved on the 11th day of February, 1909.

### Violations of Article a Misdemeanor.

**Sec. 1465.** Any person, body corporate, agent, manager or employer who shall violate any of the provisions of the two preceding sections shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars, nor more than three hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

## CHILD LABOR.

### Restrictions on Employment of Children Under Fourteen.

**Sec. 1466.** No child under fourteen years of age shall be employed in, or permitted or suffered to work in or in connection with, any mine, factory, workshop, mercantile establishment, store, telegraph or telephone office, laundry, restaurant, hotel, apartment house, or in the distribution or transmission of merchandise or messages. It shall be unlawful for any person, firm or corporation to employ any child under fourteen years of age in any such business or service whatever, during the hours in which the public schools of the district in which the child resides are in session, or before the hour of six o'clock in the morning, or after the hour of nine o'clock in the evening: Provided, That any such child, over the age of twelve years, may be employed at any of the occupations mentioned in this article during the regular vacations, of two weeks or more, of the public schools of the district in which such child resides.

## EXPLOSIVES.

### Explosives to Be Marked.

**Sec. 1555.** It shall be unlawful for any person or persons, partnership or corporation, to sell or offer for sale, or take or solicit orders of sale, or purchase, or use, or have on hand or in store for the purpose of sale or use, in any state, any giant, hercules, atlas, venture, or any high explosive containing nitro-glycerine, unless on each and every box or package and wrapper containing any such giant, hercules, atlas, venture, or any other high explosive containing

nitro-glycerine, there shall be plainly stamped or printed the name and place of business of the person or partnership or corporation by whom or which the same was manufactured, and the exact and true date of its manufacture, and the percentage of nitro-glycerine or other high explosive contained therein.

**Same.**

**Sec. 1556.** It shall be unlawful for any person or persons, partnership or corporation, to have two or more different dates on any such box or package containing giant, hercules, atlas, venture or any other high explosive containing nitro-glycerine; it shall further be unlawful for any person or persons, partnership or corporation, to use any box, package or wrapper formerly used by any other person or persons, partnership or corporation, in the packing of such giant, hercules, atlas, venture or other high explosive containing nitro-glycerine; and the name and date on such box or package shall be the same as on the wrapper containing such giant, hercules, atlas, venture or other explosive containing nitro-glycerine.

**Violation of Chapter a Misdemeanor.**

**Sec. 1557.** If any person or persons, partnership or corporation, shall violate any of the provisions of this chapter, such person or persons, the members of such partnership, or the officers or agents of such corporation, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not more than three hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment, in the discretion of the court.

## LEASE OF STATE LANDS.

**Leases.**

**Sec. 1572.** The State Board of Land Commissioners may lease any portion of the land of the State, at a rental of not less than five per cent per annum, on the valuation fixed by the State Board, except as hereinbefore provided. The lessee shall pay the annual rental to the register of the State Board of Land Commissioners, who shall receipt for the same, in the name of the board, on the lease, and file a duplicate receipt with the State Auditor. Upon receiving such annual rental, the Register shall immediately transmit the same to the State Treasurer and take his receipt therefor in duplicate, filing one receipt with the State Auditor and preserving the other in the office of the State Board of Land Commissioners. If stone, coal, coal oil, gas, or other mineral or precious metals be found upon the State land, such land may be leased for the purpose of obtaining therefrom the stone, coal, coal oil, gas, or other mineral, or precious metals, for such length of time, and conditioned upon the payment to the board of such royalty upon the product, as the State Board of Land Commissioners may determine.

**Same: Rent to Be Paid In Advance.**

**Sec. 1573.** All leases of State land, except mineral leases, shall be conditional upon the payment of rental annually in advance, and a violation of this condition shall work a forfeiture of the lease, at the option of the State Board of Land Commissioners, after thirty days' notice to the lessee, such notice being sent to the postoffice of the lessee, as given by himself to the Register of the State Land Board when the lease is issued.



### **Same: Term Renewal.**

**Sec. 1574.** No lease of State lands shall be for a longer term than five years. When any lease expires by limitation, the holder thereof may renew the same in manner as follows: At any time within the thirty days next preceding the expiration of the lease, the lessee, or his assigns, shall notify the Register of his desire to renew said lease. If the lessee and State Board agree as to the valuation of the land, a new lease may be issued, bearing even date with the expiration of the old one, and upon like conditions.

## **TAXATION OF PROFITS OF MINES.**

### **Valuation of Mines for Taxation.**

**Sec. 1863.** All mines and mining claims, both placer and rock in place, containing or bearing gold, silver, copper, lead, coal, or other valuable mineral or metal deposits, after purchase thereof from the United States, shall be taxed at the price paid the United States therefor, unless the surface ground, or some part thereof, of said mine or mining claim is used for other than mining purposes, and has a separate and independent value for such other purposes, in which case said surface ground, or any part thereof so used for other than mining purposes, shall be taxed at its value for such other purposes, and all machinery used in mining, and all property and surface improvements upon mines or mining claims, which have a value separate and independent of such mines or mining claims, and the net annual proceeds of all mines and mining claims shall be taxed: Provided, That nothing in this chapter contained must be construed so as to exempt from taxation improvements, buildings, erections, structures or machinery placed upon any mining claim, or used in connection therewith.

### **Net Profits Defined.**

**Sec. 1864.** The term "net profits," as employed in this chapter means the amount of money received from the mining of said metals or minerals from said mine or mining claim, after the deduction of the actual expenditure of money and labor in and about extracting the metals and minerals from the mine or mining claim, and transporting the same to the mill, concentrator or reduction works, and the reduction thereof, and the conversion of the same into money, or its equivalent, and also the deduction of all moneys expended for necessary labor, machinery and supplies needed and used in the mining operations, for the improvements necessary in and about the mine or mining claim, for reducing ores, for the construction of the mills and reduction works used and operated in connection with the mine or mining claim, for transporting the ore, and for extracting the metals and minerals therefrom; but the money invested in the mine, or improvements made during any year except the year immediately preceding such statement, must not be included therein. Such expenditures do not include the salaries, or any portion thereof, of any person or officers not actually engaged in the working of the mine, or personally superintending the management thereof.

### **Statement of Net Profits.**

**Sec. 1865.** Every person, corporation or association, engaged in mining upon any quartz vein or lode, or placer mining claim, containing gold, silver, copper, lead, coal or other precious and valuable

minerals or metals, or mineral or metal deposits, must, between the first day of January and the first day of May in each year, make out a statement of the net profits derived from the mining of said metals or minerals, from each mine or mining claim owned or worked by such person, or from each group of mines or mining claims worked by a common system of development, during the year preceding the first day of January. Such statement must be verified by the oath of such person, or superintendent or managing agent of such corporation or association, who must deliver the same to the assessor of the county in which such mines are situated.

#### **Statement as to Entire Group.**

**Sec. 1866.** Where the same person or company or association is operating two or more mining claims under one general system of mining or development, the product of which group of mines is mingled and treated as one mining operation, the statement of the owner provided herein to be made, and the assessment provided herein to be made by the assessor, shall be made as to such entire group, and need not be made as to each particular mining claim constituting said group.

#### **False Statements Constitute Perjury.**

**Sec. 1867.** If any one herein required to make a statement, shall knowingly and wilfully swear to any false statement contained therein, then such person shall be guilty of perjury, and shall be prosecuted and punished as provided for in other cases of perjury.

#### **Examination of Books: Penalty for False Statement.**

**Sec. 1868.** The assessor, after such statement has been rendered, shall have the right to examine the books and accounts of any person, corporation or association engaged in mining as mentioned in this chapter, in order to verify the statement made by such person, corporation or association, and if from such examination he finds such statement false, he must assess the net proceeds in the same manner as if no statement had been made and delivered, by making an estimate from the best sources within his reach, and if satisfied that the false statement was intentionally so made, he shall add as a penalty therefor, to the amount of the net proceeds so found, fifty per cent thereof, which amount thus increased shall constitute the sum upon which the taxes must be levied and collected, and such assessment shall be binding, effectual and lawful, and the value so fixed by the assessor shall not be reduced by the county board of equalization.

All information derived from any examination of the books and accounts made pursuant to this chapter by the assessor, or any one acting for him or representing him, shall be deemed to be and held as confidential communications not to be communicated to any other person by the person making such examination, or any one to whom the knowledge of such examination or facts therein disclosed shall come, except when it becomes necessary as a part of the performance of the public duty of such person to disclose the same in any proceeding affecting the validity of said assessment or taxation, or for the prosecution for perjury of the person required to make the statement mentioned in this chapter. Any person or officer making such disclosure or violating such confidence, except as herein provided, shall be deemed guilty of a felony, and upon conviction thereof shall be removed from office and punished as in case of other felonies.

### **Assessment Without Statement.**

**Sec. 1869.** If any person, corporation or association, engaged in mining as mentioned in this chapter, refuses or neglects to make and deliver to the assessor of the county where the mines are located, the statement mentioned in this chapter, such assessor must list the property and assess, according to his knowledge and information, the amount of said tax in the manner provided by the law for the assessment of other property where no statement is furnished.

### **Collection of Tax.**

**Sec. 1872.** The tax mentioned in the preceding sections must be collected, and payment thereof enforced, as the collection and enforcement of other taxes are provided for, and every such tax is a lien upon the mine or mining claim from which the ores or minerals are extracted, which lien attaches on the second Monday of January of each year, and the sale thereof for delinquent taxes may be made as provided for the sale of real estate for delinquent taxes.

## **PERSONS.**

### **Aliens: Mining Claims.**

**Sec. 2610.** Any person, whether citizen or alien (except as hereinafter provided), natural or artificial, may take, hold and dispose of mining claims and mining property, real or personal, tunnel rights, mill sites, quartz mills and reduction works used or necessary or proper for the reduction of ores, and water rights used for mining or milling purposes, and any other lands or property necessary for the working of mines or the reduction of the products thereof: Provided, That Chinese, or persons of Mongolian descent not born in the United States, are not permitted to acquire title to land or any real property under the provisions of this and the preceding sections.

## **CORPORATIONS.**

### **Annual Statement.**

Under Section 2784, as amended, all corporations, organized under the laws of this State, and all foreign corporations, joint stock companies, and associations must furnish, during the month of June of each year and before the first day of July of each year, a statement to the Secretary of State and the county recorder of every county in the State where such corporation is doing business, a correct statement, sworn to by one of the officers of the corporation or managing agent or authorized attorney-in-fact in this State of any foreign corporation, joint stock company or association, setting forth the name of the corporation, joint stock company or association, the location of the principal office, the names of the president, secretary and treasurer, with the postoffice address of each, date of annual election of directors and officers, the amount of authorized capital stock, the number of shares, the par value of each share, the amount of capital stock subscribed, the amount of capital stock issued, and the amount of capital stock paid up. Foreign corporations, joint stock companies or associations shall include in such statement the names and post-office addresses of their managing agent or attorney-in-fact in this State.

Only mining corporations, joint stock companies or associations, which own productive mines are subject to the provisions of this act.

### Annual License Fee.

**Sec. 2785.** Every such corporation, joint stock company or association, foreign as well as domestic, shall pay an annual license fee in proportion to the amount of its authorized capital stock as follows, to wit:

1. If such capital stock shall not exceed five thousand dollars, an annual license fee of ten dollars.

2. If such capital stock shall exceed five thousand dollars, and shall not exceed ten thousand dollars, an annual license fee of twelve dollars and fifty cents.

3. If such capital stock shall exceed ten thousand dollars, and shall not exceed twenty-five thousand dollars, an annual license fee of fifteen dollars.

4. If such capital stock shall exceed twenty-five thousand dollars, and shall not exceed fifty thousand dollars, an annual license fee of twenty-two dollars and fifty cents.

5. If such capital stock shall exceed fifty thousand dollars, and shall not exceed one hundred thousand dollars, an annual license fee of thirty-seven dollars and fifty cents.

6. If such capital stock shall exceed one hundred thousand dollars, and shall not exceed two hundred and fifty thousand dollars, an annual license fee of fifty-two dollars and fifty cents.

7. If such capital stock shall exceed two hundred and fifty thousand dollars, and shall not exceed five hundred thousand dollars, an annual license fee of seventy-five dollars.

8. If such capital stock shall exceed five hundred thousand dollars, and shall not exceed one million dollars, an annual license fee of ninety dollars.

9. If such capital stock shall exceed one million dollars, and shall not exceed two million dollars, an annual license fee of one hundred thirty dollars.

10. If such capital stock shall exceed two million dollars, an annual license fee of one hundred fifty dollars.

The amount of the capital stock of every corporation, joint stock company or association, shall be determined by its articles of incorporation, or amendments or supplementary articles of incorporation, charter, declaration, report or statement filed with the Secretary of State as in this article provided: Provided, That this section shall not apply to any foreign corporation formed or organized for any educational, literary, scientific, religious or charitable purpose.

### LOCATION OF LODE MINING CLAIMS.

#### Dimensions of Lode Claims.

**Sec. 3206.** Mining claims hereafter located upon veins or lodes of quartz, or other rock in place bearing any of the metals or other valuable deposits mentioned in Section 2320 of the Revised Statutes of the United States, may extend to three hundred feet on each side of the middle of the vein or lode: Provided, That when the locators have set stakes, posts or monuments described in the following section, to indicate the line of the vein, ledge or lode, such stakes, posts or monuments must be taken, for the purpose of such location, to mark correctly the line thereof, and such line must not afterwards be changed so as to affect rights acquired, or interfere with any locations made, subsequent thereto.



### **Location Monument and Notice.**

**Sec. 3207.** The locator, at the time of making the discovery of such vein or lode, must erect a monument at such place of discovery, upon which he must place his name, the name of the claim, the date of discovery and distance claimed along the vein each way from such monument. Within ten days from the date of discovery, he must mark the boundaries of his claim by establishing at each corner thereof and at any angle in the side lines, a monument, marked with the name of the claim and the corner or angle it represents; also at the time of so marking his boundaries, he must post at his discovery monument his notice of location in which must be stated: First, the name of the locator; second, the name of the claim; third, the date of discovery; fourth, the direction and distance claimed along the ledge from the discovery; fifth, the distance claimed on each side of the middle of the ledge; sixth, the distance and direction from the discovery monument to such natural object or permanent monument, if any such there be, as will fix and describe in the notice itself the location of the claim, and seventh, the name of the mining district, county and State. When from any cause, a monument can not be safely planted at the true corner or angle, it may be placed as near thereto as practicable, and so marked as to indicate the place of such corner or angle. Monuments may be made of any such material or form as will readily give notice, and when of posts or trees, they must be hewn and marked upon the side facing towards the discovery, and must be at least four inches square or in diameter. Monuments must be at least four feet high above the ground, and trees must be so hewn as to readily attract attention. At the time the locator so marks the boundaries of his claim, he may do so in any direction that will not interfere with rights or claims which existed prior to his discovery.

### **Shaft Must Be Sunk.**

**Sec. 3208.** Within sixty days after such location, the locator or his assigns must sink a shaft upon the lode to the depth of at least ten feet from the lowest part of the rim of such shaft to the surface, and of not less than sixteen square feet area. Any excavation which shall cut such vein ten feet from the lowest part of the rim of such shaft and which shall measure one hundred and sixty cubic feet in extent shall be considered a compliance with this provision. Any located claim upon which work has been done in compliance with the above requirements is not, unless abandoned, subject to relocation for a period of ninety days from and after the date of location.

### **Notice Must Be Recorded.**

**Sec. 3209.** Within ninety days after the location of the claim the locator or his assigns must file for record in the office of the county recorder of the county, or of the deputy recorder of the mining district in which the claim is situated, a substantial copy of his notice of location.

### **Record of Additional Certificate.**

**Sec. 3210.** If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that his original certificate was defective, erroneous, or that the requirements of the law had not been complied with before filing, or shall be desirous of changing the surface boundaries, or of taking any part of an overlapping claim which has been abandoned, or in case the original certificate was made prior to the passage of this law, and he shall be

desirous of securing the benefits of this chapter, such locator or his assigns may file an additional certificate subject to the conditions of this chapter, and to contain all that this chapter requires an original certificate to contain: Provided, That such amended location does not interfere with the existing rights of others at the time when such amendment is made.

#### **Affidavit of Performance of Labor.**

**Sec. 3211.** Within sixty days after any time set or period allowed for the performance of labor, or making improvements upon any lode or placer claim, the person in whose behalf such work or improvement is performed, or some person for him, must make and record an affidavit in substance as follows:

State of Idaho, County....., ss.

Before me the subscribed, personally appeared....., who being first duly sworn says that at least.....dollars worth of work for improvements were performed or made upon..... claim, situate in.....mining district, county of....., State of Idaho: That such expenditure was made by, for, or at the expense of....., owner of said claim, for the purpose of holding said claim; all stakes, monuments or trees marking boundaries of said claim are in proper place and positions.

Subscribed and sworn to before me this.....day of.....19....

The fee for administering the oath and recording the foregoing affidavit, when taken before the county recorder or deputy mining recorder, shall be fifty cents; the fee for recording the same when the oath is taken before any other officer authorized to administer oaths shall be fifty cents.

Such affidavit, or a certified copy thereof in case the original is lost, shall be prima facie evidence of the performance of such labor. The failure to file such affidavit shall be considered prima facie evidence that such labor has not been done.

#### **Location of Abandoned Claim.**

**Sec. 3212.** The location of abandoned claims shall be done in the same manner as if the location were of a new claim; but the locator may, instead of sinking a new discovery shaft, sink the original discovery shaft ten feet deeper than it was at the time of his location, or he may drive the open cut, or tunnel ten feet further along the course of the lead, lode or vein, and must erect new posts or monuments.

#### **Notice Must Claim Only One Location.**

**Sec. 3213.** No location notice shall claim more than one location, whether the location is made by one or several locators, and if it purport to claim more than one location it is absolutely void.

#### **Security to Surface Owners: Injunction.**

**Sec. 3214.** When the right to mine is in any case separate from the ownership or right of occupancy of the surface ground, the owners or rightful occupants of the surface ground may demand satisfactory security from the miners, and if it be refused or not given, may enjoin such miners from working such ground until such security is given. The court granting the writ of injunction shall fix the amount and nature of the security.

#### **Appointment of Deputy Recorders.**

**Sec. 3215.** For the convenience of prospectors and locators, the county recorders of the several counties must appoint a deputy at

any place where they may deem it necessary, and at all places more than twenty miles distant from an existing office, whenever ten or more mining locators interested petition for the appointment of a deputy. Upon failure of any recorder to appoint a deputy for ten days after the petition in writing has been presented to him, the resident miners in such district may appoint, temporarily, one of their number to act as recorder for the district, whose record shall be as valid as if made by the deputy, and must be entered by the recorder as hereinafter required: Provided, That whenever at any time afterwards, the recorder has appointed a deputy for such district or place, the authority of the person elected by the resident miners ceases.

#### **Affidavit of Locators.**

**Sec. 3216.** At or before the time or presenting a location notice for record, whether it be for a quartz or placer claim, one of the locators named in the same must make and subscribe an affidavit, in writing on or attached to the notice, substantially in the following form, to-wit:

State of Idaho, County of....., ss.

I, ....., do solemnly swear that I am a citizen of the United States of America (or have declared my intentions to become such), and that I am acquainted with the mining ground described in this notice of location, and herewith called the.....ledge, lode or claim; that the ground and claim therein described or any part thereof has not, to the best of my knowledge and belief, been located according to the laws of the United States and of this State, or if so located, that the same has been abandoned or forfeited by reason of the failure of such former locators to comply in respect thereto with the requirements of said laws, and (in the case of quartz claims) that I have opened new ground to the extent or depth of ten feet as required by the laws of Idaho.

Signature.....

Subscribed and sworn to before me this....day of.....A. D. 19....

Signature.....

#### **Manner of Recording Notices: Fees.**

**Sec. 3217.** The location notice herein required to be recorded must be recorded by the deputy appointed for the district or the person appointed for that purpose as above provided (when the legal fee therefor is tendered) in a book kept for that purpose. Said book must be indexed, with the names of all the locators arranged in alphabetical order, according to the family or surname of each. The fee to be tendered for making such record, administering the oath to the locator and certifying the same, for indexing the names appearing on the notice, and to include recording the notice by the recorder as hereinafter required, and the indexing by said recorder, is two dollars, which fee must be equally divided between the recorder and the deputy or the person acting under an election as hereinbefore provided, and no other additional sum of money must be demanded or received by either of them, for any services connected with the recording of any location notice made pursuant to the requirements of this chapter.

#### **Transmission of Notices to County Recorder.**

**Sec. 3218.** The deputy recorder of mining claims of each district, or the person elected as hereinbefore provided to make the record in case of the failure of the recorder to appoint a deputy, must, at least once in each month, transmit to the recorder at the county seat, all

the notices of location filed with him for record and not previously transmitted, which must at once be recorded by said recorder, in a book to be kept in his office, to be known as the "Book of Mining Claims." The names of all persons appearing in every notice of location must be indexed by the recorder, said names being arranged in said index in alphabetical order, according to the first letter of the surname of said locators.

**Same: Transmission to Deputies.**

**Sec. 3219.** It shall be the duty of the county recorder of the several counties of this State, within fourteen days after receiving them, to transmit to the deputy mining recorder of the district wherein the claims located are situated, all location notices, both quartz and placer, which shall not have been already recorded in the office of the deputy mining recorder. It shall be the duty of such deputy mining recorder to record in his records all such notices received by him, and he shall receive as compensation therefor from the recorder sending them, one-half the fee authorized by law to be charged for the recording of mining claims. After recording such notices the deputy mining recorder shall return the same to the county recorder.

**Seal of Deputies: Limitation on Powers.**

**Sec. 3220.** The deputy recorders provided for in this chapter, are not, by virtue of the provisions hereof, authorized to perform any other than the special duties herein specified. They must keep an official seal, and the records in their custody are public records, but the seal of a deputy recorder must not be attached to any paper except for the purpose of authenticating certificates attached to transcripts of the records in his custody as deputy recorder.

**PLACER CLAIMS.**

**Location of Placer Claim.**

**Sec. 3221.** Placer claims, as mentioned in Section 2329 of the Revised Statutes of the United States, may be located for the purpose of mining deposits and precious stones after the discovery of such deposits.

**Monuments: Notice: Excavation: Record of Notice.**

**Sec. 3222.** The locator of any placer mining claim located for the purpose of mining placer deposits or precious stones, must, at the time of making the location, place a substantial post or monument, as is required in the location of quartz claims, at each corner of the location, and must also post on one of the same a notice of location containing the date of the location, the name of the locator, the name and dimensions of the claim, the mining district (if any) and county in which the same is situated; and must also give the distance and direction from said post or monument to such natural object or permanent monument, if any such there be, as will fix and describe in the notice itself the location of the claim. Within fifteen days after making the location, the locator must make an excavation upon the claim of not less than one hundred cubic feet, for the purpose of prospecting the same. Within thirty days after the location, the locator must file for record in the office of the recorder of the county, or the deputy recorder of the mining district in which the claim is situated, a substantial copy of his copy of notice of location, to which must be attached an affidavit such as is required in case of quartz claims.



## RIGHTS OF WAY AND EASEMENTS FOR THE DEVELOPMENT OF MINES.

### Right of Way for Mining Purposes.

**Sec. 3223.** The owner, locator, or occupant of a mining claim, whether patented under the laws of the United States or held by location or possession, may have and acquire a right of way for ingress and egress, when necessary in working such mining claim, over and across the lands or mining claims of others, whether patented or otherwise.

### Same: For Railroads, Ditches and Tunnels.

**Sec. 3224.** When any mine or mining claim is so situated, that for the more convenient enjoyment of the same a road, railroad or tramway therefrom, or a ditch or canal to convey water thereto, or a ditch, flume, cut or tunnel to drain or convey the waters or tailings therefrom, or a tunnel or shaft, may be necessary for the better working thereof, which road, railroad, tramway, ditch, canal, flume, cut, shaft or tunnel, may require the use or occupancy of lands or mining grounds, owned, occupied or possessed by others than the person or persons or body corporate requiring an easement for any of the purposes described, the owner, claimant or occupant of the mine or mining claim first above mentioned, is entitled to a right of way, entry and possession for all the uses and privileges for such road, railroad, tramway, ditch, canal, flume, cut, shaft or tunnel, in, upon, through and across such other lands or mining claims, upon compliance with the provisions of this chapter.

### Action to Condemn Right of Way.

**Sec. 3225.** When the owner, claimant, or occupant of any mine or mining claim desires to work the same, and it is necessary, to enable him to do so successfully and conveniently, that he have a right of way for any of the purposes mentioned in the foregoing sections, if such right of way can not be acquired by agreement with the claimant or owner of the lands or claims over, under, through, across or upon which he seeks to acquire such right of way, he may commence an action in the District Court in and for the county in which such right of way, or some part thereof, is situated, by filing a verified complaint containing a particular description of the character and extent of the right sought, a description of the mine or claim of the plaintiff, and of the mine or claim and lands to be affected by such right of way or privilege, with the name of the occupant or owner thereof. He may also set forth any tender of compensation that he may have made, and demand the relief sought.

## MINING TUNNELS.

### Right to Cross Located Claim.

**Sec. 3236.** Any person or company who has or who may hereafter have a tunnel or cross-cut, the mouth of which is located upon his own ground or upon ground in his lawful occupation, shall have the right to drive and continue the same through and across any located or patented claim in front of the mouth of the tunnel, but not to follow or drive upon any vein belonging to the owner of such claim.

### **Owner of Intersected Claim May Inspect Tunnel.**

**Sec. 3237.** Each tunnel or cross-cut may be driven and worked for the purpose of drainage and for the purpose of reaching and working mining ground of the tunnel owner beyond the intersected claim. The owner or owners of any vein or any claim or claims so intersected, or his duly authorized agent, shall have the right to enter such tunnel upon application to the owner or owners or person in charge of said tunnel, without resorting to any process of law for the purpose of making a survey and inspecting such vein or veins as may be crossed within the boundary lines of such intersected claim, and if the owner or owners of such tunnel shall, by bulk-heading, damming back, or in any manner, prevent the inspection or survey herein provided for, or if such owner or owners shall in any manner prevent the natural drainage of water from such intersected claim or claims without the consent of the owner or owners thereof, it shall work a forfeiture of all rights granted under the preceding section.

### **Title to Ore Taken From Intersected Claim.**

**Sec. 3238.** If any ore, the property of the owner of the claim intersected or crossed, be extracted in driving such tunnel, it shall be the property of the owner of the vein from which it was taken and the owner of the tunnel shall be liable for all actual damages or injury done to the owner of the claim crossed by his tunnel.

### **Burden of Proof as to Discovered Vein.**

**Sec. 3239.** In all actions between the tunnel owner and others involving the right to any vein discovered in such tunnel, the burden of proving that the vein so discovered is not the property of the adverse claimant in such action shall be on the tunnel owner.

## **APPROPRIATION OF WATER.**

The public waters of the State are appropriated under the provisions of Chapter II, Title 9, Civil Code, and amendments thereto. To acquire title to the public waters of the State, the following procedure is outlined:

Application for permit must be made to the State Engineer. Such application must set forth: (1) The name and postoffice address of the applicant, (2) the source of the water supply, (3) the nature of the proposed use, (4) the location and description of the proposed ditch, channel or other work and the amount of water to be diverted and used, (5) the time required for the completion of construction of such works, which in no case shall exceed five years from the date of approval of the application, (6) the time required for the complete application of the water to the proposed use, which must be within four years after the date set for the completion of such works.

The application shall be accompanied by a plan and map in duplicate of the proposed works for the diversion and application of the water to a beneficial use, showing the character, location and dimensions of the proposed reservoirs, dams, canals, ditches, pipe lines, and all other works proposed to be used by them in the diversion of the water, and the area and location of the lands proposed to be irrigated.

If such application is filed by a corporation it shall state (1) the amount of its capital stock, how much thereof has been actually paid in, and the names and places of residence of its directors, and (2)

the financial resources of the corporation or person making the application, and the means by which the funds necessary to construct the proposed works are to be provided. If for the generation of power or any other purpose than irrigation or domestic use, the purpose for which it is proposed to be used, the nature, location, character, capacity and estimated cost of the works, and whether the water used is to be and will be returned to the stream, and if so, at what point on the stream.

In case the proposed right of use is for agricultural purposes, the application shall give the legal subdivisions of land proposed to be irrigated, with the total acreage to be reclaimed as near as may be: Provided, That no one shall be authorized to divert for irrigation purposes more than one cubic foot of water per second for each fifty acres of land to be so irrigated, unless it can be shown to the satisfaction of the State Engineer that a greater amount is necessary: Provided, further, That the plan of irrigation submitted shall provide for the distribution of water to within not more than one mile of each legal subdivision of the land proposed to be reclaimed by the use of such water: Provided, also, That in the case of all ditches designed to have a capacity of ten cubic feet per second or less, such map showing the location of such ditch, and the place of use of such water, or the location of the lands to be irrigated, may be upon blanks furnished by the State Engineer.

No permit shall issue under any application filed hereafter until the applicant shall have deposited with the State Engineer a filing fee of one dollar, if the quantity of water claimed is one cubic foot or less per second, and if the quantity of water claimed is in excess of one cubic foot per second, the fee to be so deposited by the applicant shall be increased ten cents for each additional cubic foot or fraction thereof: Provided, That no filing fee shall be required in the case of any application which is in effect a refiling of a previous application upon which the required fee was paid at the time of the original filing. The State Engineer shall make and keep in a suitable book a record of all filing fees received in connection with applications for permits to appropriate public waters, and said record shall set out: (1) The name of the applicant, (2) the number of the application, (3) the quantity of water filed on, (4) the amount of the fee received, and (5) the date of receipt of said fee.

If said application is defective, the same must be returned by the State Engineer to the applicant for correction within thirty days from the receipt thereof. Corrected application shall be returned to the State Engineer within 60 days from the date endorsed thereon by the State Engineer.

All corrected applications being duly filed with the State Engineer, he shall endorse his approval thereon, and the said application shall then constitute a permit.

In his said approval, the State Engineer shall require that actual construction work shall be completed within a period of five years from the date of such approval, and that one-fifth of such work of construction shall be done within one-half the period of time allowed for the completion of such works and shall also set a date for the beneficial application of the water to be diverted, which in no case shall be more than four years from the date set for the completion of the works (Sections 3253, 3254, 3255, Revised Codes).

On or before the date set for the completion of the works, the holder of any permit shall submit proof of completion of such works, and upon examination of such works by the State Engineer or his agent, he shall issue certificate of completion (Section 3257, Revised Codes).

On or before the date set for beneficial application of water proof of beneficial use shall be made, and the State Engineer shall examine such works and system, and if water applied for has been put to beneficial use, shall issue his license, confirming the use of applicant in the water applied for. (Section 3260.)

NOTE—Upon receiving the following facts, the State Engineer will issue his temporary permit thus fixing the date of priority of applicant. The application may be corrected later in accordance with provisions above stated. First, the name of the applicant; second, source of supply; third, point of diversion (approximately); fourth, the amount claimed in second feet (50 miner's inches being equivalent to one second foot); fifth, the use for which intended.

### **MINING PARTNERSHIP.**

#### **When Mining Partnership Exists.**

**Sec. 3361.** A mining partnership exists when two or more persons who own or acquire a mining claim for the purpose of working it and extracting the mineral therefrom, actually engage in working the same.

#### **Express Agreement Not Necessary.**

**Sec. 3362.** An express agreement to become partners or to share the profits and losses of mining is not necessary to the formation or existence of a mining partnership. The relation arises from the ownership of shares or interests in the mine and working the same for the purpose of extracting the minerals therefrom.

#### **Sharing Profits and Losses.**

**Sec. 3363.** A member of a mining partnership shares in the profits and losses thereof in the proportion which the interest or share he owns in the mine, bears to the whole partnership capital or whole number of shares.

#### **Lien of Partners and Creditors.**

**Sec. 3364.** Each member of a mining partnership has a lien on the partnership property for the debts due the creditors thereof, and for money advanced by him for its use. A lien exists in favor of the creditors notwithstanding there is an agreement among the partners that it must not.

#### **Mine Partnership Property.**

**Sec. 3365.** The mining ground owned and worked by partners in mining, whether purchased with partnership funds or not, is partnership property.

#### **Sale of Interest by Partner.**

**Sec. 3366.** One of the partners in a mining partnership may convey his interest in the mine and business without dissolving the partnership. The purchaser, from the date of his purchase, becomes a membership of the partnership.

#### **Liability of Purchaser.**

**Sec. 3367.** A purchaser of an interest in the mining ground of a mining partnership takes it subject to the liens existing in favor of the partners for debts due all creditors thereof, or advances made for the benefit of the partnership unless he purchased in good faith, for a valuable consideration, without notice of such lien.



Same.

**Sec. 3368.** A purchaser of the interest of a partner in a mine when the partnership is engaged in working it, takes with notice of all liens resulting from the relation of the partners to each other and to the creditors of the partnership.

#### **Members Can Not Bind Partnership.**

**Sec. 3369.** No member of a mining partnership or other agent or manager thereof can, by a contract in writing, bind the partnership except by express authority derived from the members thereof.

#### **Majority of Shares Governs.**

**Sec. 3370.** The decision of the members owning a majority of the shares or interests in a mining partnership, binds it in the conduct of its business.

#### **Partnership Contracts May Be Recorded.**

**Sec. 3371.** Written contracts relating to prospecting or mining, or to the formation of co-partnership for that purpose, when signed by the parties thereto and indorsed by at least one witness, may be recorded in the office of the county recorder of the county wherein it is proposed to prosecute the business of said co-partnership, or where the property affected by such contract is situated.

#### **Record Constructive Notice.**

**Sec. 3372.** Such record shall be constructive notice to all persons of the matters contained in such contract or co-partnership agreement.

### **ACTIONS TO DETERMINE CONFLICTING CLAIMS TO REAL PROPERTY.**

#### **Order for Survey and Examination.**

**Sec. 4542.** Any person having a bona fide claim to the possession, title of, or interest in, any real property or mining claim, including any ledges thereof, which is, or which he has good reason to believe is, in the possession of another, either by surface or underground holdings or workings, and it is necessary for the ascertainment, enforcement or protection of such rights or interest, that an examination or survey of such property be had, and the person so in the possession thereof, fails or refuses for three days after demand on him made in writing, to permit such examination or survey to be made, the party desiring the same may apply to the court or the judge thereof, whether he have an action concerning such property pending in such court or not, for an order for such examination and survey.

Such application must be made upon written petition or statement under oath, setting out a description of the property, interest of the party therein, that the premises are in the possession of a party, naming him, the reason why such survey or examination is asked, the demand made for same, and refusal thereof.

The court or judge must appoint a time and place for hearing, of which notice, with a copy of the petition, must be served upon the adverse party, at least three days before the hearing and one additional day for each twenty-five miles between the place of service of notice and the hearing, and such hearing must be had and the testimony must be produced in the same manner as provided by Section 4297 for hearings on injunctions.

If upon such hearing the court or judge is satisfied that either party is entitled to any relief or order for examination or survey of any property in the possession of the other, which has, by the papers in the proceedings, been put in controversy, an order must be granted for such examination, survey and other privileges as the court or judge may deem just, and the order must specify as nearly as possible what the person in whose favor such order is granted may do.

Thereupon, such person may have free access, with such agents and assistants as may be allowed, to all parts of such property, with right to remove any loose rock, debris or other obstacle, when the same is necessary to the making of a full inspection or survey of such property, but no such removal must be made without the consent of the adverse party or the order of the court or judge permitting the same.

The court or judge may also, upon proper showing, with the view of producing such evidence as may be needed to determine the rights of the parties, allow work to be done on such property, but any work so permitted must be allowed only after the same is particularly defined, and must not be allowed in such manner as to interfere with the workings of the adverse party, and then only when the court is satisfied the adverse party is acting in bad faith and is infringing or attempting so to do, upon the rights of the party asking to do such work, and when there is no other reasonable or convenient mode for the production of the evidence necessary to settle the rights of the parties.

The party so asking to do work upon the premises of, or in the possession of another, must give good and sufficient security for the payment of all damages he may do the adverse party by reason of such work, and the court or judge must at every stage of the proceedings have due regard for the rights of all parties in interest.

Same.

**Sec. 4543.** The order must describe the property, and a copy thereof must be served on the owner or occupant; and thereupon such party may enter upon the property, with necessary surveyors and assistants, and make such survey and measurement; but if any unnecessary injury be done to the property, he is liable therefor.

## POSSESSORY ACTIONS FOR PUBLIC LANDS.

### Actions to Protect Possessory Rights.

**Sec. 4552.** Any person being a citizen of the United States, or having in accordance with law declared his intention to become a citizen, occupying and settled upon any of the public lands of the United States in this State for the purpose of cultivating or grazing the same, may commence and maintain any action for interference with, or injury to, his possession of such land, against any person interfering with or injuring the same; but if such land contains mines of any of the precious metals, the possession or claim of the person occupying the same for the purposes aforesaid must not prevent the working of such mines by persons desiring to work the same, as fully as if no such claim for agricultural or grazing purposes had been made thereon: Provided, That this chapter must not be so construed as to allow a person, subsequent to the location of land for agricultural or grazing purposes, to go upon such lands for the purpose of mining without first paying the owner thereof the value of any

growing crops they may destroy; this provision does not extend to any crops planted subsequent to their location for mining purposes; and this chapter must not be construed to authorize the maintenance of any claim upon lands which, at the commencement of any such action, may have been selected by the United States, and reserved for any purpose.

#### **Claim: What to Contain.**

**Sec. 4553.** Every claim, to enable the holder to maintain any action as aforesaid, must contain not more than one hundred and sixty acres of land, to be in a compact form, and so distinctly marked that the boundaries thereof may be easily traced.

### **CONSPIRACY.**

#### **Regarding Mining Claims.**

**Sec. 6541.** In all cases where two or more persons associate themselves together for the purpose of obtaining the possession of any lode, gulch, or placer claim, then in the actual possession of another, by force and violence, or by stealth, and proceed to carry out such purpose by making threats against the party or parties in possession, or enter upon such lode or mining claim for the purpose aforesaid, or enter upon or into any lode, gulch, placer claim, quartz mill or other mining property, or, not being upon such property, make any threats, or make use of any language, signs or gestures, calculated to intimidate any person or persons at work on said property, from continuing to work thereon or therein, or to intimidate others from engaging to work thereon or therein, every such person so offending is guilty of misdemeanor.

### **FRAUDS IN THE MANAGEMENT OF CORPORATIONS.**

#### **Publishing False Prospectus or Report.**

**Sec. 7128.** Any person who knowingly makes or publishes in any way whatever, or permits to be so made or published, any book, prospectus, notice, report, statement, exhibit or other publication of, or concerning the affairs, financial condition or property of, any corporation, joint stock association, co-partnership or individual, which said book, prospectus, notice, report, statement, exhibit or other publication, shall contain any statement which is false or wilfully exaggerated or which is intended to give, or which shall have a tendency to give, a less or greater apparent value to the shares, bonds or property of said corporation, joint stock association, co-partnership or individual, or any part of said shares, bonds or property, than said shares, bonds or property or any part thereof, shall really and in fact possess, shall be deemed guilty of a felony, and upon conviction thereof shall be imprisoned for not more than ten years or fined not more than ten thousand dollars, or shall suffer both said fine and imprisonment.

### **MALICIOUS MISCHIEF.**

#### **Destroying Mining and Water Right Notices.**

**Sec. 7172.** Every person who intentionally defaces, obliterates, tears down or destroys any notice posted on any lode or placer mining claim, or ditch, or water right, or location, or who removes, takes down or destroys any post or monument erected or placed to mark or indicate any such claim, right or location, or any part or boundary thereof, or part thereon, is guilty of a misdemeanor.

## LIABILITY OF EMPLOYERS.

Session Laws 1909, Page 34. (House Bill No. 26.)

Be It Enacted By the Legislature of the State of Idaho:

**Section 1.** Every employer of labor in or about a railroad, street railway, factory, workshop, warehouse, mine, quarry, engineering work, and any building which is being constructed, repaired, altered, or improved, by the use and means of a scaffold, temporary staging, or ladders, or is being demolished, or on which machinery driven by steam, water or other mechanical power is being used for the purpose of construction, repair or demolition thereof, shall be liable to his employee or servant for a personal injury received by such servant or employee in the service or business of the master or employer within this State when such employee or servant was at the time of the injury in the exercise of due care and diligence in the following cases:

(1) When the injury was caused by reason of any defect in the condition of the ways, works or machinery connected with or used in the business of the employer which arose from or had not been discovered or remedied owing to the negligence of the employer or of any person in the service of the employer and entrusted by him with the duty of seeing that the ways, works or machinery were in proper condition.

(2) When the injury was caused by reason of the negligence of any person in the service of the employer entrusted with and exercising superintendence whose sole or principal duty is that of superintendence, or in the absence of such superintendent, of any person acting as superintendent with the authority and consent of such employer.

(3) When such injury was caused by reason of the act or omission of any person in the service or employment of the master or employer, done or made in obedience to the rules and regulations or by-laws of the master or employer, or in obedience to particular instructions given by any person delegated with the authority of the master or employer so to instruct.

(4) When such injury was caused by the negligence of any person in the service or employment of the master or employer who has charge of any signal or telegraph office directing the movement of any locomotive engine, train or car upon a railroad, or any part thereof, at the time such person was injured.

(5) That any action brought against any employer or master under or by virtue of any of the provisions of this Act to recover damages for injuries to or death of any of its employees, such employee shall not be held to have assumed the risks of his employment in any case where a violation by such employer or master of any statute enacted for the safety of employees contributed to the injury or death of such employee.

(6) An employee, by entering upon or continuing in the service of the employer, shall be presumed to have assented to the necessary risks of the occupation or employment, and no others. The necessary risks of the occupation or employment shall, in all cases arising after this act takes effect, be considered as including those risks, and those only, inherent in the nature of the business, which remain after the employer has exercised due care in providing for the safety of his employees, and has complied with the laws affecting or regulating such business or occupation for the greater safety of such employees: Provided, That the master or employer shall not be liable under any of the provisions of this section if the servant or employee know of the defect or negligence causing the injury, or by the exercise of reasonable care could have known of the defect or negligence



causing the injury and failed within a reasonable time to give notice thereof to the master or employer, or to some person superior to himself engaged in the service or employment of the master or employer who had entrusted to him some general superintendence, unless the master or such superior already knew of such defect or negligence: Provided, Also that the master or employer shall not be liable under any of the provisions of this section where the injury to the employee was caused by the incompetency of a co-employee, and such incompetency was known to the employee injured, and the employee injured failed within a reasonable time to give notice thereof to the master or employer, or to some person superior to himself engaged in the service or employment of the master or employer who had entrusted to him some general superintendence, unless the master or employer or such superior already knew of such incompetency of such co-employee, and such master or employer failed or refused to discharge such incompetent employee or failed or refused to investigate the alleged incompetency of the co-employee and discharge him if found incompetent.

**Sec. 2.** In the case of injury to an employee who is a minor, then the father, or in case of his death or the desertion of his family, the mother may maintain an action for injuries received for which the master is liable under the provisions of this act, unless the said minor be married, in which case the said minor may maintain an action in his own name for the said injuries, and a guardian may under like circumstances maintain an action for the injury of his ward, and in the event the said minor be not married and have no father or mother dependent upon him, the said action may be maintained by a guardian to be appointed by the court for the benefit of the said minor. In case the said injuries result in the death of the said minor and the said minor be married, then the action may be maintained by the widow and guardian of the said minor's children, if any there be, and if the said minor be unmarried, then the father or in case of his death or desertion of his family, the mother may maintain an action for the death of said minor child resulting under such circumstances; and if neither father nor mother survive the said minor, the action may be brought by the next of kin who at the time of his death were dependent upon his wages for support, or by the personal representatives of the minor for the benefit of such next of kin who at the time of the death of the said minor were dependent upon his wages for support.

**Sec. 3.** In case the employee be not a minor and the injuries result in his death, then an action may be maintained by the widow of the deceased, or if he leaves no widow, his next of kin who at the time of his death were dependent upon his wages for support, or by his personal representatives for the benefit of his heirs or next of kin for damages against the employer under the circumstances mentioned in this act.

**Sec. 4.** The amount of damages to be recovered in case of death shall not exceed the sum of five thousand dollars (\$5,000.00).

The damages recovered on account of death shall not be subject to the debts of the deceased.

**Sec. 5.** No action for the recovery of compensation for injuries or death under this act shall be maintained unless notice of the time, place and cause of the injury is given to the employer within one hundred and fifty (150) days, and the action is commenced within one (1) year after the occurrence of the accident causing the injury or death. The notice required by this section shall be in writing, and shall be signed by the person injured or by some one in his behalf,

but if from physical or mental incapacity it is impossible for the person injured to give notice within the time provided in this section, he may give the same within ten (10) days after such incapacity is removed. In case of his death without having given such notice, his executor or administrator or widow or next of kin may give such notice within sixty (60) days after such death, but no notice under the provisions of this section shall be deemed to be invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of the injury, if it be shown that there was no intention to mislead and the party entitled to notice was not in fact misled thereby. The notice required by this section shall be served in the same manner as required of the service of summons in civil actions.

**Sec. 6.** The acts and parts of acts in conflict herewith are hereby repealed.

**Sec. 7.** Whereas an emergency exists, this act shall be in effect from and after its passage and approval.

Approved March 6th, 1909.

## OPERATION AND EQUIPMENT OF MINES.

Session Laws 1909, Page 266. (Senate Bill No. 160.)

Be It Enacted By the Legislature of the State of Idaho:

**Section 1.** The rules, regulations and methods prescribed in Sections 2-29 of this act, which shall be observed and followed by each and every person, employee, firm or corporation operating mines within the State of Idaho.

**Sec. 2.** Shafts or tunnels, which at the present time are covered with frame buildings, such as shaft houses, blacksmith shops, machine shops or engine rooms, shall be provided with fire protection. In all cases, dry hand-grenade fire extinguishers shall be available at convenient points around the buildings, and water protection under sufficient natural pressure, with at least one hydrant, with hose and nozzle attachment, located outside of the building, shall be provided wherever water is available.

**Sec. 3.** Every working adit or cross-cut tunnel entrance, where wooden buildings exist at or near the portal of same, shall be provided with a fire door not less than fifty feet in from the earth portal of the tunnel. This door shall be hung and so adjusted that upon being released it will close of its own accord, either by its own weight when hung from the top of the tunnel, or by means of suspended weights when hung from the side. The door shall be held open by a rope passing over a pulley, terminating outside of any of the buildings at the mouth of the tunnel, and shall be so fitted that, when closed, it will cut off the circulation of air as completely as possible. Where electric haulage is used in said adit or cross-cut tunnel, a door consisting of two doors hung from the sides and closing tightly can be used.

If there be no other exit which can be reached from the underground workings connected with such entrance tunnel, then such entrance tunnel shall further be provided with a short raise and ladder way to the surface immediately inside of the fire door.

**Sec. 4.** At all mines employing, underground, more than fifteen men, and where the vein has been driven on and stoping commenced, shall be provided with more than one exit, and where there is no such escapement raise or exit, work on such an outlet shall be commenced immediately, and be diligently carried on until completed.

**Sec. 5.** Shafts sunk to a greater depth than 100 feet must have two

or more compartments, one compartment to be used for a manway, and to be fitted with a good, substantial ladderway, provided with platforms or cross pieces at intervals of not to exceed twenty feet, and where practicable the ladder shall be in lengths of not to exceed twenty, and inclined at a convenient angle.

**Sec. 6.** Where wooden buildings exist at or near the collar of a shaft, and when there is no other exit which may be reached from this shaft, through underground workings, then the manway compartment of the shaft must be partitioned off from the other compartments, and provided with a trapdoor, over the manway compartment, at the surface, which must be kept closed or so arranged that it can be closed from a point outside of the building by the releasing of a rope, and said manway compartment shall in addition be connected with the surface by a short drift or raise starting at a point not less than twenty-five feet below the collar of the shaft and terminating outside of any buildings.

**Sec. 7.** The construction of new buildings, for mechanical plant, timber shed, blacksmith shop or for any other purpose, over or at the entrance to a mine, shall be prohibited, excepting in high, snowy countries where a shed may be permitted between the buildings and the entrance to the mine, which can be rapidly destroyed in case of fire, but all frame buildings shall be placed at a distance of not less than twenty-five feet from the entrance.

**Sec. 8.** The collar of all shafts shall be fixed and protected so that persons and foreign objects can not fall into the shafts, and all openings in mines such as chutes, winzes, timber slides and mill holes, when not in use for any considerable length of time, shall be protected by a plank or guard rail, and all abandoned or unused surface shafts or raises to the surface shall be securely fenced off or covered.

**Sec. 9.** It shall be unlawful for any person to sink or operate a vertical or steeply inclined shaft to a greater depth than 250 feet without having the same equipped with a mine cage, skip or bucket fitted with safety clutches.

Where a bucket is used, the same must be attached to a fixed safety crosshead by two chains or cables. Loose crossheads for shaft buckets are strictly prohibited.

Where a cage or skip is used, it must be provided with a bonnet in addition to safety clutches. The bonnet must be made of boiler sheet iron of at least 3-16 inch thickness, and must cover the top of the cage in such a manner as to afford the greatest protection to life and limb from any falling objects.

Where a cage and skip are used together in the same compartment of the shaft, the bonnet may be dispensed with, if the skip is placed above the cage, provided this act does not apply to skips, cages, or buckets used solely to hoist or lower materials.

**Sec. 10.** All gallows frames shall be equipped with automatic chairs placed in such a position as to catch the cage or skip, and prevent its falling, in case of overwinding and consequent breaking of the cable.

**Sec. 11.** After a shaft has reached 200 feet in depth and stoping commenced, the gallows frame shall not be less than forty feet in height between the collar of the shaft and sheave wheel.

**Sec. 12.** Wherever a steam, electric, gas, air or water driven hoist is used in the handling of men in mines, it shall be equipped with an indicator, placed in clear view of the hoist engineer, and geared positively to the shaft or drum of the hoist, and so adjusted with dial or slide as to provide a target or indicator that will at all times show the exact location of the bucket, cage or skip.

**Sec. 13.** Electric power cables, where used underground, shall be thoroughly insulated; and where electric haulage is used underground, the trolley wires must be protected by inverted U-shaped guards, placed along the trolley wires, opposite any hand-loading chutes.

**Sec. 14.** Every shaft that is equipped with a bucket, cage or skip operated by a hoist shall be supplied with pull bell, and also with an electric bell and flash light signal, where practicable.

**Sec. 15.** At all mines where hoisting apparatus is used in the State of Idaho, the following code of bell signals shall hereafter be adopted and used:

One bell, hoist.

One bell, stop (if in motion).

Two bells, lower.

Three bells, hoist men (run slowly).

Four bells, blasting signal. Engineer must answer by raising bucket or cage a few feet and letting it back slowly; then one bell, hoist men away from blast.

Nine bells, danger signal (fire, accident or other danger), followed by the station call where the danger exists.

No person other than the cager shall ring the signal bell except in case of absolute necessity, and then only after giving seven bells, thereby notifying the hoist engineer that someone other than the cager is ringing the bell.

#### Station Signals.

Bells.	Pause.	Bells.	No. Station.
2	"	1	1
2	"	2	2
2	"	3	3
2	"	4	4
2	"	5	5
3	"	1	6
3	"	2	7
Etc.	Etc.	Etc.	Etc.
5	"	5	20

**Sec. 16.** Every mining property using hoisting apparatus within the State of Idaho shall keep one copy of this entire code posted on the gallows frame, and a copy of the bell signals before the hoist engineer, and on each station.

**Sec. 17.** All mines employing more than fifteen men equipped with cages or skips used for hoisting men and material, from two or more levels, shall have a man known as a cager, whose duty shall be to load and unload the cage or skip, and to give signals to the hoisting engineer, etc.

**Sec. 18.** It shall be unlawful for any cager or other person to ride upon a cage or skip except after having given a bell signal known by the engineer to be a signal for the handling of men. No private or short signals will be allowed when men are to be hoisted or lowered.

**Sec. 19.** It shall be unlawful for any one, excepting the cager, to ring the hoist bells without first giving a special signal, notifying the hoist engineer that someone other than the cager is ringing the bell.

**Sec. 20.** It shall be unlawful for men to travel on a cage or skip loaded with steel supplies or material, other than the cager or those who are assisting him in the loading and unloading of such material.

**Sec. 21.** It shall be unlawful for any person, whether working for himself or whether he be in the employ of any other person, company or corporation, to ride upon the bail or cable of a hoisting bucket, cage or skip.



**Sec. 22.** It shall be unlawful for any hoist engineer to raise or lower a bucket, cage or skip, except upon bell signals.

**Sec. 23.** When a man is being broken in as hoist engineer and when he is under the tutorage of a qualified hoist engineer, and a signal is given to hoist or lower men, the qualified hoist engineer there present must take charge of the hoist, the new man not being allowed to handle the hoist when men are on the cage or skip until he has qualified as a hoist engineer.

**Sec. 24.** It shall be unlawful for any hoist engineer, while on duty, to answer questions or converse with any one in any manner whatsoever, excepting such persons as may be assisting him in the operation of the hoist, and then only when necessary. When approached by any one desiring to converse with him, he shall bring the hoist to rest and descend from the bridge before answering any such inquiries, or entering into conversation.

**Sec. 25.** It is unlawful for any person, company or corporation to hoist or lower men at a greater speed than 600 feet per minute; or to hoist or lower the men when going on or coming off of shift, after the cage has remained idle several hours, until one round trip has been made with the empty cage; and when a shaft is equipped with chairs at the several levels, the hoist engineer must slow up when passing stations when men are on the cage or skip.

**Sec. 26.** No person addicted to the use of intoxicating liquors or under twenty-one years of age shall be employed as hoisting engineer, and no person under the influence of liquor shall be permitted underground, either in the capacity of employee or otherwise.

**Sec. 27.** It shall be unlawful for any mining company or person to store more explosives in the underground workings of any mine where men are employed than is required for twenty-four hours' use, and it shall also be unlawful to store or thaw powder in any building used as a dwelling or in which men are employed in any capacity, excepting in the storing, thawing or removing of the same, and storage places for powder shall be situated not less than 200 feet distant from any dwelling or working place for men, unless some impregnable, natural object intervenes, and then only in a properly designed building or an underground excavation to be used exclusively for that purpose, and conspicuously marked as such.

Powder thawers using fire, candles, lanterns or lights of any kind are hereby prohibited in mines employing more than fifteen men.

**Sec. 28.** No person, whether working for himself or in the employ of another person, company or corporation, while loading or charging a hole with nitro-glycerine powder or other explosive, or in removing powder from same, shall use or employ any steel or iron bar; nor shall any mine manager, superintendent, foreman or shift boss, or other person having the management or direction of mine labor, allow or permit the use of a steel, iron or other metal tamping bar by employees under his management or direction.

**Sec. 29.** Oils and other inflammable materials shall be stored or kept at a safe distance from the mine buildings, and at a safe distance from the powder magazine, and their removal from said building for use shall be in such quantities as are necessary to meet the requirements of one day only.

**Sec. 30.** Any person, firm or corporation operating mines within the State of Idaho who shall fail, neglect or refuse to comply with any of the provisions of this act, relating to the duties of employer, shall be guilty of a misdemeanor, and upon conviction shall be fined a sum of not more than \$300, or imprisonment for not more than six months, or both such fine and imprisonment; and any employee in any mine

who shall fail, neglect or refuse to comply with any of the requirements of this act, relating to the duties of employees, shall be guilty of a misdemeanor, and upon conviction shall be fined a sum of not more than \$300, or imprisonment for not more than six months, or both such fine and imprisonment.

**Sec. 31.** It shall be the duty of the Prosecuting Attorney of the proper county to prosecute the violations of the provisions of this act upon the furnishing of the necessary information by or at the direction of the Inspector of Mines.

**Sec. 33.** It shall be the duty of the State Inspector of Mines to have printed a sufficient number of copies of this act for distribution.

Approved March 15, 1909.

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